

MEETING #29 - August 1

At a Public Hearing of the Madison County Planning Commission and the Madison County Board of Supervisors on August 1, 2018 at 7:00 p.m. in the Madison County Administrative Center Auditorium located at 414 N. Main Street:

PRESENT: R. Clay Jackson, Chairman
Jonathon Weakley, Vice-Chairman
Kevin McGhee, Member
Charlotte Hoffman, Member
Amber Foster, Member
Jack Hobbs, County Administrator
Sean Gregg, Interim County Attorney
Betty Grayson, Zoning Administrator

Planning Commission:

Call to order

Pledge of Allegiance & Moment of Silence

1. Determination of a Quorum

Mr. Yowell, Commission Chair, noted that a Quorum was present.

2. Approval of Minutes

The minutes of the July 5, 2018 meeting were approved as presented.

3. Action Items:

Mr. Yowell advised that the purpose of tonight's public hearing will be to focus on a proposed amendment to Article 20-203A - definition of Use, Seasonal or Brief, as noted in the County's Zoning Ordinance.

Bill Campbell asked that members of the Planning Commission be allowed to provide comments before the floor is opened to the public.

Mr. Yowell, Chair, called for comments from the Commission.

- Pete Elliott: Advised that (while he was on the Board), the proposed definition of "Use - Seasonal or Brief" was voted as an ordinance and not a definition (in his opinion); suggested there be some tweaking to the definition but not a full deletion of the existing; elimination of the definition may cause some issues for the commercial operations that have been 'grandfathered in' and result in future applicants having to pay additional fees to do business in the County; questioned why the County is involved with various operations (i.e. horse shows, tent revivals, yard sales, etc.); feels there is 'too much government' involved in local affairs
- Gerold Stephenson: Advised that when the 'ordinance' was passed in 2013, there was some discussion about the time frame involved and whether proposed uses would be temporary (i.e. as specified by the length of days [17]), and whether the amount of days denoted would be sufficient based upon the time of season; referred to fact that Mr. Elliott 'abstained' from voting on the proposal during his tenure on the Board of Supervisors; feels the allotted time frame needs to be assessed based on the Code of Virginia requirements for commercial uses (which isn't noted in the

existing definition); noted that there is no requirement for a temporary use permit to be filed with the County; suggested the definition be reworded

- Jerry Butler: Advised that during the initial vote of today's proposed definition, Mr. Elliott did 'abstain' (due to being in the process of establishing an auctioneer business); there was also discussion regarding allowing local auction establishments, tent sales and yard sales; noted that the discussions pertained to an 'ordinance' (to the best of his knowledge) and not a 'definition'; noted that the time frame of seventeen (17) days was initiated to assist Plow & Hearth to accommodate the number of days involved with their annual tent sale(s)
- Faye Utz: Noted the definition of a use - seasonal or brief isn't mentioned in any other documents; suggested this matter be addressed and tied to the actual ordinance (seasonal or brief) isn't mentioned in any other documents; suggested this matter be addressed, as definitions tie back to the actual ordinance; noted that past discussions also focused on local auction establishments
- Charles (Mike) Fisher: Referred to a recent auction and asked if a permit was attained; suggested there be some distinction to cover events that bring in revenue for the operator and take place regularly

In response to Mr. Fisher's aforementioned concern, Mr. Elliott explained that the existing definition, "use- seasonal or brief" covers local auctions.

- Carty Yowell: Noted that the actual use should've been listed within the actual ordinance (in his opinion) and not as a definition only
- John Kerby: Noted that (in his opinion) deleting the existing definition would not benefit the County; suggested that the Commission compile more appropriate language for a definition

Mr. Yowell, Chair, noted that at the recent workshop, the Commission discussed doing away with the word 'seasonal' (which is brief), but nothing has been initiated.

- Bill Campbell: Referred to the history of the Finance Committee, Economic Development Committee, the State Code, and the transient occupancy tax that was developed in the past when tonight's proposed definition was being discussed; referred to the fact that (in his opinion) there is no need for regulations in the County as they don't pertain to everyone

****Pete Elliott, Commission member, abstained from voting on tonight's issue****

After discussion, the Madison County Planning Commission motioned to 'accept the amendment to strike the definition (Use - seasonal or brief) and establish a Committee to review tonight's matter.

Mr. Yowell, Chair, charged Gerald Stephenson with setting up a Committee to review tonight's request, and County residents were also encouraged to participate if they desire.

Mr. Yowell, Chair, advised that the next workshop session will be scheduled for August 15, 2018 at 7:00 p.m.

5. Adjournment:

With no further action being required, Mr. Yowell, Chair, adjourned the Madison County Planning Commission portion of tonight's meeting session.

Board of Supervisors:

Call to order

Chairman Jackson called the Board of Supervisors' portion of tonight's meeting to order.

1. Determine Presence of a Quorum

All members are present. A quorum was established.

2. Adoption of Agenda

Chairman Jackson called for additions and/or adoption of tonight's agenda.

Items to be added include:

- ❖ *Tour of Health Department*
- ❖ *Amendment to Resolution #2018-7*
- ❖ *Resignation of EMS Director*
- ❖ *Closed Session (Leathers Lane & Pending Litigation)*
- ❖ *Public Comment*

Supervisor Foster moved that the Board adopt tonight's Agenda as amended, seconded by Supervisor Hoffman. *Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

3. Public Hearing:

a. Amendment to Zoning Ordinance, Article 20-203A, Use, Seasonal or Brief: Chairman Jackson moved into the public hearing to amend the definition to Article 20-201A (Use, Seasonal or Brief) as presented.

Comments from the Board:

- *Supervisor Weakley: Referred to the Commission's recommendation; feels there were good points made (i.e. Code of Virginia requirements pertaining to commercial entities); feels it's important to assess and/or immitate regulations regarding definitions to ensure consistency; suggested a committee be established regardless of whether the Board agrees/disagrees with tonight's recommendation, of if there is an alternative suggestion that pertains to commercial entities; asked for further public input from anyone that wishes to convey thoughts or ideas*
- *Supervisor Hoffman: Suggested the recommendation to remove the definition not be initiated until something else is in place; feels the definition needs to be tweaked; feels that formulation of a committee is an appropriate suggestion*
- *Supervisor Foster: Concurred with prior comments to leave the existing definition in place; also feels that establishing a committee is an appropriate action; referred to comments that in 2013 minutes related to the 'definition' and not that it was a separate ordinance; suggested that tweaking be initiated for commercial entities; questioned how the County knows which 'grandfathered' businesses are involved and whether there is a date involved when ordinances are adopted*

Betty Grayson, Zoning Administrator, was present and clarified that when an ordinance is adopted, that specific date is noted in the County's books.

- *Supervisor McGhee: Referred to the recommendation by the Commission; feels that additional research is needed pertaining to the definition; suggested that the existing definition not be removed until something more definitive is compiled*

- *Chairman Jackson: Verbalized no issues with deletion of the definition or an amendment (by a committee) as an alternative solution; noted that 'seasonal use, brief use' for seventeen (17) days a month equals 204 days a year (56%) of the time, which he doesn't feel is 'seasonal or brief'; noted that the use has allowed a multiple businesses to operate within the County without doing business the correct way; feels that legitimate businesses shouldn't be working around appropriate rules; verbalized concerns regarding commercial vs. personal and encouraged the proposed committee to assess this; doesn't understand why the County is regulating tent sales, garage sales, tent revivals, etc. (i.e. over-regulation by the County); feels the existing 'use' has been abused multiple times by businesses, and has caused issues for the County overall*

The public hearing was then opened to the public.

The following individual(s) provided comments:

- Bill Campbell: Feels that the 'use' wasn't being used as intended; referred to concerns that suggestions were as a way to 'do away' with the use; commented to former Board's and the decisions to 'abbreviate' the minutes which resulted in much discussion being done away with; referred to the allowance of 'grandfathering'; referred to errors (in County Ordinances) that don't appear to have been corrected
- Jerry Butler: Referred to 'grandfathering' and questioned whether changes are noted on the actual County Ordinances; referred to the fact that the public isn't away of the current process being utilized by the County
- The Zoning Administrator noted that efforts have been made (in the past) to notate changes on the main page. It was also noted that when amendments are made, the new date is noted in her office by date of amendment(s).
- Carl Kirby: Made reference to policy and regulations and how any changes were kept up with (i.e. addendum) to advise of any changes; also referred to the manner in which 'grandfathering' is allowed; suggested there be more legitimacy addressed in the specific ordinance, and assess what needs to be in place for the future
- Garold Stephenson: Advised that the website has minutes posted for the past several years, along with a complete copy of the County's Zoning Ordinance (as opposed to going to the courthouse)
- *Chairman Jackson: Advised that the County is undergoing a recodification process that will clean up issues and address efficiencies within County ordinances that have lapsed over time*

Supervisor McGhee moved that the Board accept the existing definition until the Madison County Planning Commission develops a Committee to compile a replacement definition, seconded by Supervisor Hoffman.

Discussion:

- *Supervisor Weakley: Asked for clarification that the Commission recommended that the current definition be stricken and to appoint a Committee to assess the definition vs. what has been motioned*

Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).

Ordinance #2018-4 was not passed

4. Information/Correspondence (if any)

Tour of Health Department

Supervisor Weakley referred to prior discussion regarding a future tour of the Madison Health Department facility. The Director of the Madison Free Clinic has offered to provide assistance on August 16th at 6:00 p.m., if the Board is agreeable.

After discussion, it was the consensus of the Board to tour the Madison Health Department facility on August 14th at 6:00 p.m.

- Bill Campbell: Provided accolades to the Madison Volunteer Rescue Squad for services rendered; also thanked Lewis Jenkins, Director of Emergency Medical Services, for his dedication to the citizens of Madison County

Amendment to Resolution #2018-7

The Board was presented with a requested amendment to Resolution #2018-7 (i.e. funding amount provided).

Supervisor Foster moved that the Board adopt the Amended Resolution #2018-7 as presented, seconded by Supervisor Hoffman. *Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

Resignation of EMS Director

The County Administrator reported that the Director of Emergency Medical Services has filed his intent to retire as of September 1st. Plans are to evaluate current County employees to assess the possibility of promoting someone before reporting to the Board whether there is a need to advertise for external candidates.

5. Closed Session [Leathers Lane & Pending Litigation]

a. Closed Session: On motion of Supervisor Weakley, seconded by Supervisor Hoffman, the Board convened in a closed session pursuant to Virginia Code Section 2.2-3711(A)(7), for:

- (a) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation where such consultation or briefing in open session would adversely affect the negotiating or litigation posture of the public body on Leathers Lane, and
- (b) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probably litigation where such consolation or briefing in open meeting would adversely affect the negotiating or litigation of posture of the public body on the Robert Legge matter:

seconded by Supervisor McGhee. *Aye: Jackson, Weakley, McGhee, Hoffman. Nay: (0).*

b. Motion to Reconvene in Open Session:

On motion of Supervisor Weakley, seconded by Supervisor Hoffman, the Board reconvened in open session, with the following vote recorded: *Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

c. Motion to Certify Compliance:

On motion of Supervisor Weakley, seconded by Supervisor McGhee, the Board certified by roll-call vote that only matters lawfully exempted from open meeting requirements pursuant to Virginia Code 2.2-3711(A)(7) and only matters that were identified in the motion to convene in a closed session were heard, discussed or considered in the closed meeting, with the following vote recorded: *Aye: Jackson, Weakley, McGhee, Hoffman, Foster. Nay: (0).*

As a result of closed session:

Mr. Gregg reviewed a draft of a statement from the Board regarding the Leathers Lane issue for the audience. It was understood that a revised document would be produced and distributed to the Syria Mountain Estates property owners and that an invitation would be issued for all to attend a community meeting.

Darryl Whidby and Brian Lenhoff came forward to discuss the statement with Mr. Gregg.

Public Comment

- Bill Sanford came forward to discuss the maintenance of Forest Drive. It was reported that the road has developed potholes due to the recent rains that that a tree overhanging the road needs to be removed. The County Administrator

was asked to contact VDOT to encourage maintenance at the earliest. Mr. Sanford expressed his displeasure at having Forest Drive removed from the Six Year Road Improvement Plan after only one individual requested it at a meeting that Mr. Sanford did not know about.

➤ *Chairman Jackson reminded everyone of the public hearing process associated with the Six Year Road Improvement Plan*

The County Administrator was asked to contact Joel DeNunzio of VDOT to advise of the need for maintenance on Forest Drive (i.e. tree removal).

6. Adjournment

With no further action being required, on motion of Supervisor Hoffman, seconded by Supervisor Foster, Chairman Jackson adjourned tonight's meeting.

R. Clay Jackson, Chairman
Madison County Board of Supervisors

Clark of the Board of the Madison County Board of Supervisors

Adopted on: August 14, 2018

Copies: Board of Supervisors, County Attorney & Constitutional Officers



Agenda
Joint Meeting
Madison County Planning Commission &
Madison County Board of Supervisors
Wednesday, July 5, 2018 at 7:00 P. M.
County Administration Building Auditorium
414 N. Main Street, Madison, Virginia 22727

Planning Commission

Call to Order

Pledge of Allegiance & Moment of Silence

1. Determine Presence of a Quorum
2. Approval of Minutes
3. Adjournment

Board of Supervisors

Call to Order

1. Determine Presence of a Quorum
2. Adoption of Agenda
3. Public Hearing
 - a. *Amendment to Zoning Ordinance, Article 20-203A, Use, Seasonal or Brief*
4. *Information/Correspondence (if any)*

**Tour of Health Department*

**Amendment to Resolution #2018-7*

**Resignation of EMS Director*

**Closed Session (Leathers Lane & Pending Litigation)*

**Public Comment*

5. *Closed Session [Leathers Lane & Pending Litigation]*

6. Adjournment

AMENDMENTS NOTED IN ROYAL BLUE WITH YELLOW HIGHLIGHT